

ATTORNEY GENERAL[61]

Adopted and Filed

Rule making related to regulation of physical exercise clubs

The Attorney General hereby amends Chapter 26, “Regulation of Physical Exercise Clubs,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 552.20.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2000 Iowa Acts, chapter 1021, section 4.

Purpose and Summary

The limited purpose of these amendments is to remove rules that implemented a statutory provision that has been repealed. Iowa Code section 552.15 mandated that persons operating or intending to operate a physical exercise facility in the state of Iowa register with the Iowa Attorney General’s Consumer Protection Division. This provision was repealed by 2000 Iowa Acts, chapter 1021, section 4. Since the repeal of Iowa Code section 552.15, the rules adopted by the Attorney General concerning that section are no longer good law. Rule 61—26.3(552), Registration, is such a rule. The rule’s continuing presence in the Iowa Administrative Code causes confusion because, though the rule is no longer enforced, persons operating physical exercise facilities are wary of disregarding its written stipulations. Thus, the Attorney General finds it both practical and legally necessary to rescind and reserve rule 61—26.3(552).

In addition, the introductory paragraph of subrule 26.4(7) provides that a physical exercise club shall be provided notice of hearing at its place of business as shown on its registration statement. Now that these entities no longer have to register, it is no longer practical to send notice to these locations. Fortunately, these entities still have to file a copy of their escrow agreements with the Attorney General pursuant to paragraph 26.4(2)“a.” As such, their addresses should still be on file with the Attorney General notwithstanding their lack of registration. Thus, the Attorney General finds it practical and legally necessary to strike the language referencing registration from the introductory paragraph of subrule 26.4(7).

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on May 6, 2020, as **ARC 5030C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Attorney General on June 10, 2020.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Attorney General for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on August 5, 2020.

The following rule-making actions are adopted:

ITEM 1. Rescind and reserve rule **61—26.3(552)**.

ITEM 2. Amend subrule 26.4(7), introductory paragraph, as follows:

26.4(7) Notice of hearing. The physical exercise club shall be provided notice of hearing at its place of business ~~as shown on its registration statement~~. All buyers who have funds in the escrow account shall be provided notice of the hearing at their last-known address with costs assessed to the physical exercise club. Notice of hearing will include:

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/1/20.